

Attorney's Docket: 2003DE404

Application Number 10/769,963

Filed 02/02/2004

Response to Office Action dated 10/01/2004REMARKS

The Office Action mailed October 1, 2004 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Applicant has amended the specification in paragraph [00045] to correct an obvious typographical error which was not earlier noticed. In paragraph [00044], the proper reference to the PCT publication in line 10 is WO 9211347. It is believed that no new matter is introduced by this amendment.

Applicant has amended the Application to attend to housekeeping matters and to more clearly describe the invention. Claims 1 and 6 were amended to incorporate the recitation of claim 2 into claim 1 as a Markush list. Claim 6 was amended to include a peroxygen compound. Support for this amendment may be found in originally filed claims 1, 6, and 2. Claims 5, 8 and 10 were amended to replace the term "eliminates" with the term --releases--. Support for this amendment may be found in Applicant's Specification in paragraph [00044] wherein the text reads "compounds which **release** peroxocarboxylic acids under perhydrolysis conditions." This is now consistent with the corresponding German text which in the German priority document DE 10304131.1, at page 15 uses the word "freisetzt", meaning set free. In the German language application, claim 5 uses the word "abspaltend", meaning "split off" or "releases". It is believed that no new matter is introduced by these amendments.

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The objection to the Specification as failing to provide proper antecedent basis for the claimed subject matter as recited by claims 5, 8, and 10 should be removed in light of the above amendments.

Claims 5, 8 and 10 were rejected under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As amended, claims 5, 8, and 10 relate to compounds with "release" peroxocarboxylic acid under perhydrolysis conditions and in paragraph [00044] of Applicant's specification these compounds are described as conventional bleach activators. Thus, anyone skilled in the art would readily understand the meaning of the terms and the nature of the compounds encompassed by the claim language of claims 5, 8, and 10. Therefore, the rejection of claims 5, 8, and 10 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention should be withdrawn.

Claims 1, and 3-10 were rejected under 35 USC 102(b) as being anticipated by Van Kralingen et al. (US 5,114,611). The rejection of claim 1 and 6 under 35 USC 102(b) as being anticipated by Van Kralingen et al. (US 5,114,611) should be withdrawn for the reason that '611 does not disclose, teach or suggest the combination of a peroxygen compound and a transition metal complex of Applicant's invention which employs a ligand selected from the group consisting of pyridine, imidazole, picoline, imidazoline, pyrrole, pyrazole, triazole, hexamethylenimine, piperidine, lutidine, and mixtures thereof. It is fundamental that all elements of a claim must be found united in the same way to perform the identical function for a

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reference to establish anticipation. Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art reference, there is no anticipation. Therefore the rejection of claims 1 and 3-10, as amended, under 35 USC 102(b) as being anticipated by Van Kralingen et al. (US 5,114,611) should be withdrawn.

Claim 6 was rejected under 35 USC 102(b) as being anticipated by Whitney et al. ("A Study of the Electronic and Structural Properties of Bis(pyridine)dichloroiron(II)), Witteveen et al. (Antiferromagnetic Interaction in Dichlorobis(pyrazole)manganese(II): Three Independent Determinations), or H. T. Witteveen (Linear-Chain Antiferromagnetism in compound  $MnX_2L_2$ , with  $X=Cl, Br$  and  $L = Pyrazole, Pyridine$ ). The above mentioned articles to Whitney et al. and Witteveen et al. disclose the preparation and of transition metal complexes, but do not disclose any combination or interaction of those transition metal complexes with a peroxygen compound as taught in the instant invention. It is fundamental that all elements of a claim must be found united in the same way to perform the identical function for a reference to establish anticipation. Unless all of the same elements are found in exactly the same situation and united in the same way to perform the identical function in a single prior art reference, there is no anticipation. Therefore, the rejection of claim 6 as being anticipated by Whitney et al. ("A Study of the Electronic and Structural Properties of Bis(pyridine)dichloroiron(II)), Witteveen et al. (Antiferromagnetic Interaction in Dichlorobis(pyrazole)manganese(II): Three Independent Determinations), or H. T. Witteveen (Linear-Chain Antiferromagnetism in compound  $MnX_2L_2$ , with  $X=Cl, Br$  and  $L = Pyrazole, Pyridine$ ) should be

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withdrawn for the reason that none of the references teach or suggest the combination of all the elements of claim 6.

Claim 2 was objected to as being dependent upon a rejected base claim for the reason that none of the references of record teach or suggest a method for increasing the oxidation and bleaching action of a peroxygen compound using the instant transition metal complex. Claims 1 and 6 were amended to incorporate all of the limitations of claim 2. Therefore, amended claims 1 and 6 should be allowable in light of the above amendments. Claims 3-5 and 7-10 now depend from allowable claims 1 and 6 and should therefore be allowable.

It is respectfully submitted that, in view of the above remarks, the objections to the specification and the claims and the rejections under 35 U.S.C. §112 and 102 should be withdrawn and that this application is in a condition for an allowance of all pending claims. Accordingly, favorable reconsideration and an allowance of all pending claims are courteously solicited.

An early and favorable action on the merits is respectfully requested.

Respectfully submitted,

  
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Attachment: DE 10304131.1 Priority Document: Cover Page, page 15 and Claim 5